

An organization must be formed and operate under the state law governing the formation of credit unions to qualify for exemption under section 501(c)(14)(A) of the Code as a state chartered credit union.

The question has been raised whether the organization described below qualifies for exemption from Federal income tax under section 501(c)(14)(A) of the Internal Revenue Code of 1954 as a credit union.

Because the organization does not meet the requirements for incorporation under the state statute governing the formation of credit unions, it is incorporated under the state general corporation law. The organization's charter states that the purpose of the organization is to provide persons of moderate income with the vehicle to accumulate savings and to borrow funds.

Its charter requires mutuality of lender and borrower in the sense that any person borrowing from the organization must be a member. As no particular criteria concerning qualification for membership have been established, an applicant for credit may become a member by depositing a nominal sum with the organization as an investor.

Credit unions (other than Federal credit unions) are exempt from Federal income tax under section 501(c)(14)(A) of the Code. See section 1.501(c)(14)-1 of the Income Tax Regulations.

Before 1951, section 101(4) of the Internal Revenue Code of 1939, the predecessor of section 501(c)(14) of the 1954 Code, exempted from Federal income tax:

'Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized for mutual purposes and without profit.'

Although section 101(4) of the 1939 Code did not specifically identify credit unions, the Service considered many of them to be within the general meaning of 'cooperative banks.' Opinion of the Attorney General, 31 O.A.G. 176 (1917).

In the Revenue Act of 1951, Public Law 183, Eighty-second Congress, 65 Stat. 452, Congress deleted the language relating to building and loan associations and cooperative banks from section 101(4) of the 1939 Code. Instead, it provided for exemption of credit unions without capital stock organized and operated for mutual purposes and without profit.

Before 1951, state law was applicable in determining whether organizations qualified as domestic building and loan associations or cooperative banks for purposes of exemption from Federal income tax. *United States v. Cambridge Loan and Building Company*, 278

U.S. 55 (1928) (T.D. 4252, C.B. VII-2, 290 (1928)). Similarly, state law determines whether organizations are credit unions for purposes of exemption from Federal income tax under section 501(c)(14)(A) of the 1954 Code.

As the subject organization was not formed and does not operate under the state law governing credit unions, it is held that it is not a credit union under section 501(c)(14)(A) of the 1954 Code, and accordingly is not exempt from Federal income tax.